

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SARAH POLZIN,

Plaintiff,

v.

PETER HUIBREGTSE,

Defendant.

ORDER

08-cv-437-slc

Plaintiff has filed a “Notice of Motion and Motion to Dismiss Without Prejudice,” which I construe as a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41.

Rule 41(a)(1) provides:

. . .the plaintiff may dismiss an action without a court order by filing (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. . .Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal-or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

In this case, the defendant has not yet answered or moved for summary judgment. Therefore, plaintiff is free to dismiss her case voluntarily, without prejudice to her refiling her complaint at a later date.

Accordingly, I accept plaintiff's notice of voluntary dismissal, and direct the Clerk of Court to close this file.

Entered this 3rd day of September, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge